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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 18th January, 1985:—

BILL NO. 6 OF 1985

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Representation of the People (Amendment) Act, 1985.

(*2*) It shall be deemed to have come into force on the 20th day of November, 1984.

43 of 1951.

Insertion of new section 73A.

2. In the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), after section 73, the following section shall be inserted, namely:—

Special provision as to certain elections.

"73A. Notwithstanding anything contained in section 73 or in any other provision of this Act, with respect to the general election for the purpose of constituting a new House of the People upon the expiry of the term of the House of the People in existence on the commencement of the Representation of the People (Amendment) Act, 1985,—

(*a*) the notification under section 73 may be issued without taking into account the Parliamentary constituencies in the

State of Assam and the Parliamentary constituencies in the State of Punjab; and

(*b*) the Election Commission may take the steps in relation to elections from the Parliamentary constituencies in the State of Assam and the Parliamentary constituencies in the State of Punjab separately and in such manner and on such dates as it may deem appropriate.".

Repeal and saving.

3. (*1*) The Representation of the People (Amendment) Ordinance, 1984, is hereby repealed. 15 of 1984.

(*2*) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Sub-section (2) of section 14 of the Representation of the People Act, 1951 enables the President to call upon, by one or more notifications published in the Gazette of India on such date or dates as may be recommended by the Election Commission, all parliamentary constituencies to elect members in accordance with the provisions of the said Act and of the rules and orders made thereunder for the purpose of constituting a new House of the People on the expiration of the duration of the existing House or on its dissolution.

2. In respect of the general election for constituting the Eighth Lok Sabha, the Election Commission had recommended that the presidential notification under section 14(2) of the Representation of the People Act, 1951 might be issued on the 20th November, 1984 calling upon all parliamentary constituencies other than those within the States of Assam and Punjab to elect members in accordance with the provisions of that Act and of the rules and orders made thereunder. In the case of Assam, the Commission felt that the revision of the electoral rolls which it had undertaken in pursuance of the undertaking given by it to the Supreme Court would take time and that the question of holding elections from the parliamentary constituencies in Assam could be taken up only after the completion of such revision. In the case of Punjab, the Commission was satisfied on the basis of the report of the Chief Electoral Officer, Punjab and also the State Government regarding the existing law and order situation in that State that elections from the constituencies in that State could not be held with the rest of the country. The Commission accordingly decided to fix a separate programme in due course with respect to the elections from the parliamentary constituencies in Assam and Punjab and recommended that suitable provisions might be made in the Representation of the People Act, 1951 to provide the legal cover with regard to the postponing of the elections from the parliamentary constituencies in the States of Assam and Punjab. The Representation of the People (Amendment) Ordinance, 1984 was accordingly promulgated by the President on the 20th November, 1984.

3. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI;
The 15th January, 1985.

A. K. SEN.

BILL NO. 8 OF 1985

A Bill to make temporary provisions for the operation and maintenance of the Calcutta metro railway and for matters connected therewith, pending the making of regular arrangements for such operation and maintenance.

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, commencement and application.

1. (*1*) This Act may be called the Calcutta Metro Railway (Operation and Maintenance) Temporary Provisions Act, 1985.

(*2*) It shall be deemed to have come into force on the 22nd day of October, 1984.

(*3*) It shall apply to the metropolitan city of Calcutta.

Definitions.

2. (*1*) In this Act, unless the context otherwise requires,—

(*a*) "Calcutta metro railway administration" or "metro railway administration" means the General Manager of the metro railway appointed under section 3 of the Construction Act;

(*b*) "commissioner" means a commissioner of the metro railway appointed under section 27 of the Construction Act:

(c) "Construction Act" means the Metro Railways (Construction of Works) Act, 1978; 33 of 1978.

(d) "metro railway" means such portion of the metro railway constructed in the metropolitan city of Calcutta under the provisions of the Construction Act as may, for the time being, be available for public carriage of passengers, and includes—

(*i*) all land within the boundary marks indicating the limits of the land appurtenant to the metro railway;

(*ii*) all lines of rails, sidings, yards or branches worked over for the purposes of, or in connection with, the metro railway;

(*iii*) all stations, offices, ventilation shafts and ducts, warehouses, workshops, manufactories, fixed plants and machineries, sheds, depots and other works constructed for the purpose of, or in connection with, the metro railway;

(*e*) "prescribed" means prescribed by rules made under this Act.

(2) All other words and expressions used herein and not defined but defined in the Indian Railways Act, 1890, or the Metro Railways (Construction of Works) Act, 1978, shall have the meanings, respectively, assigned to them in those Acts. 9 of 1890. 33 of 1978.

CHAPTER II

THE CALCUTTA METRO RAILWAY ADMINISTRATION

Calcutta metro railway administration to be responsible for the operation and maintenance of the metro railway.

3. (*1*) Subject to the other provisions of this Act, the Calcutta metro railway administration shall be responsible for the operation and maintenance of the metro railway.

(2) The Calcutta metro railway administration may, for the efficient performance of its functions under this Act, appoint such officers and other employees as it considers necessary on such terms and conditions of service as may be prescribed.

Previous sanction of the Central Government required for the opening of metro railway.

4. (*1*) No metro railway shall be opened for the public carriage of passengers except with the previous sanction of the Central Government.

(2) Before giving its sanction under sub-section (*1*), the Central Government shall, after considering the report given (whether before or after the commencement of this Act) by the commissioner under clause (*a*) of sub-section (2) of section 27 of the Construction Act and other relevant factors, satisfy itself that the metro railway can be opened without danger to the public using it.

(3) A sanction given under this section may be either absolute or subject to such conditions as the Central Government thinks necessary for the safety of the public.

(4) Where any sanction for the opening of the metro railway under this section is given subject to any conditions, such railway shall not be worked or used until such conditions are fulfilled to the satisfaction of the Central Government.

CHAPTER III

SPECIAL PROVISIONS FOR THE RUNNING OF THE METRO RAILWAY

Carriage of goods.

5. (1) No person shall, while travelling in the metro railway, carry with him any goods other than a small baggage containing personal belongings not exceeding such volume and weight as may be prescribed.

(2) Where any person travels in the metro railway in contravention of the provisions of sub-section (1), he shall, notwithstanding that he holds a valid pass or ticket for any travel in such railway, be liable to be removed from the train by any metro railway official authorised by the metro railway administration in this behalf or by any other person whom such metro railway official may call to his aid.

Reservation of compartments for females not necessary.

6. It shall not be necessary for the metro railway administration to reserve any compartment in any train for the exclusive use of females.

Dangerous or offensive goods.

7. (1) No person shall take or cause to be taken any dangerous or offensive goods upon the metro railway.

(2) If any metro railway official has reason to believe that any such goods are contained in a package in the custody of any passenger, he may cause the package to be opened for the purpose of ascertaining its contents.

Penalty for taking or causing to take offensive or dangerous goods upon the metro railway.

8. (1) If, in contravention of sub-section (1) of section 7, a person takes or causes to be taken any offensive goods upon the metro railway, he shall be punishable with fine which may extend to five hundred rupees.

(2) If, in contravention of sub-section (1) of section 7, a person takes or causes to be taken any dangerous goods upon the metro railway, he shall be punishable with imprisonment for a term which may extend to four years and with fine which may extend to five thousand rupees.

(3) In addition to the penalties specified in sub-section (1) or sub-section (2), a person taking or causing to be taken any offensive goods or dangerous goods upon the metro railway shall be responsible also for any loss, injury or damage which may be caused by reason of such goods having been so brought upon the metro railway.

Smoking in compartments, etc.

9. (1) No person shall smoke in any compartment or carriage of the metro railway or in any underground metro railway station.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

(3) If any person persists in so smoking after being warned by any metro railway official to desist, he may, in addition to incurring the liability mentioned in sub-section (2), be removed from the compartment or carriage in which he is travelling or from the underground station at

which he may be found smoking by any metro railway official authorised by the metro railway administration in this behalf.

Drunkenness or nuisance upon the metro railway.

10. (*1*) If any person,—

(*a*) is in a state of intoxication; or

(*b*) commits any nuisance or act of indecency, or uses obscene or abusive language; or

(*c*) wilfully or without excuse interferes in any way with the comfort of any passenger,

in any carriage or upon any part of the metro railway, he shall be punishable with fine which may extend to two hundred and fifty rupees and shall also be liable to forfeiture of the fare which he may have paid or any pass or ticket which he may have obtained or purchased, or be removed from such carriage or part by any metro railway official authorised by the metro railway administration in this behalf.

(*2*) If any metro railway official is in a state of intoxication while on duty, he shall be punishable with fine which may extend to two hundred and fifty rupees, or, where the improper performance of the duty would be likely to endanger the safety of any passenger travelling or being upon the metro railway, with imprisonment for a term which may extend to two years, or with fine which may extend to five hundred rupees, or with both.

Prohibition of demonstrations upon the metro railway.

11. (*1*) No demonstration of any kind whatsoever shall be held on any part of the metro railway or other premises thereof and it shall be open to the metro railway administration to exclude from such premises any person attending such demonstrations whether or not he is in possession of a pass or ticket entitling him to be in the said premises.

(*2*) No person shall paste or put up any poster or write or draw anything or matter in any compartment or carriage of the metro railway, or any premises thereof, without any lawful authority and any person found engaged in doing any such act may be removed from the compartment, carriage or premises by any metro railway official authorised by the metro railway administration in this behalf.

(*3*) Whoever contravenes any of the provisions of sub-section (*1*) or sub-section (*2*), or being asked by any metro railway official to leave any compartment, carriage or premises refuses to do so, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Penalty for travelling on roof, etc., of a train.

12. If any passenger travels on the roof of a train or persists in travelling in any part of a train not intended for the use of passengers or projects any part of his body out of a train after being warned by any metro railway official to desist, he shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both, and shall also be liable to be removed from the train by any metro railway official authorised by the metro railway administration in this behalf.

Penalty for unlawfully entering or remaining upon the metro railway or walking on the metro railway line.

13. (1) If a person enters into or upon the metro railway without any lawful authority or having entered with lawful authority remains there unlawfully and refuses to leave on being requested to do so by any metro railway official, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

(2) If any person walks on the metro railway line without any lawful authority, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Endangering the safety of passengers.

14. If any metro railway official, when on duty, endangers the safety of any passenger,—

(*a*) by any rash or negligent act or omission; or

(*b*) by disobeying any rule or order which such official was bound by the terms of his employment to obey, and of which he had notice,

he shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to six thousand rupees, or with both.

Abandoning train, etc., without authority.

15. If any metro railway official, when on duty, is entrusted with any responsibility connected with the running of a train, or any other rolling stock from one station or place to another station or place, and he abandons his duty before reaching such station or place, without authority or without properly handing over such train or rolling stock to another authorised metro railway official, he shall be punishable with imprisonment for a term which may extend to four years, or with fine which may extend to five thousand rupees, or with both.

Obstructing running of trains, etc.

16. If any person obstructs or causes to be obstructed or attempts to obstruct any train or other rolling stock upon the metro railway by squatting, picketing, or keeping without authority any rolling stock on the metro railway or tampering with any signalling installations or by interfering with the working mechanism thereof, or otherwise, he shall be liable to be removed by any metro railway official authorised by the metro railway administration in this behalf and shall also be punishable with imprisonment for a term which may extend to four years, or with fine which may extend to five thousand rupees, or with both.

Offences by companies.

17. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved

that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

CHAPTER IV

MISCELLANEOUS

Application of Act 9 of 1890 and the rules, etc., made thereunder to the metro railway.

18. Save as otherwise expressly provided in this Act, the provisions of the Indian Railways Act, 1890, and the rules, orders or notifications made or issued thereunder shall, so far as may be, and subject to such modifications as may be necessary, apply to the operation and maintenance of the metro railway, as if such metro railway were a railway as defined under that Act, and the references to "railway administration" and "inspector" in that Act shall be construed as references to the "metro railway administration" and "commissioner" respectively.

9 of 1890.

Effect of Act and rules, etc., inconsistent with other enactments.

19. The provisions of this Act or any rule made or any notification issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

Protection of action taken in good faith.

20. (*1*) No suit, prosecution or other legal proceeding shall lie against the Central Government, the metro railway administration or any officer or other employee of that Government or the metro railway administration for anything which is in good faith done or intended to be done under this Act.

(*2*) No suit, prosecution or other legal proceeding shall lie against the Central Government or the metro railway administration or any officer or other employee of that Government or the metro railway administration for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

Power to remove difficulties.

21. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

Power to make rules.

22. (*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely:—

(*a*) the terms and conditions of service of the officers and other employees of the metro railway administration under sub-section (*2*) of section **3**;

(b) the cases in which and the extent to which the procedure specified in section 4 for the opening of the metro railway for public carriage of passengers may be dispensed with;

(c) the volume and weight of the baggage containing personal belongings that may be carried by a person while travelling in the metro railway;

(d) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and saving.

23. (1) The Calcutta Metro Railway (Operation and Maintenance) Temporary Provisions Ordinance, 1984, is hereby repealed. 13 of 1984.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

To meet the inadequacies of the existing surface transport system and the ever increasing demand of urban commuter traffic in Calcutta, the construction of rapid transit system from Dum Dum to Tollygunj (metro railway) is in progress in accordance with the provisions of the Metro Railways (Construction of Works) Act, 1978 (33 of 1978). Two small single line stretches of the metro railway under construction from Esplanade to Bhowanipore and Dum Dum to Belgachia were ready for opening to public carriage of passengers with a limited number of train services in October, 1984.

2. As it was decided to provide interim relief to the commuters by commissioning the above two stretches for public carriage of passengers, it was considered necessary to make temporary provisions for the operation and maintenance of the metro railway at Calcutta pending the making of regular arrangements for such operation and maintenance. Accordingly, the President promulgated the Calcutta Metro Railway (Operation and Maintenance) Temporary Provisions Ordinance, 1984 (13 of 1984) on the 22nd October, 1984, to achieve the above object.

3. The Ordinance, *inter alia,* provided for the following matters, namely:—

(i) the metro railway administration constituted under the Metro Railways (Construction of Works) Act, 1978, was entrusted with the responsibility for the operation and maintenance of the metro railway and the authority has to satisfy certain conditions before the opening of the metro railway for the public carriage of passengers;

(ii) special provisions for the running of the metro railway;

(iii) specified certain offences and provided for appropriate penalties therefor. Although these offences are also covered under the existing Indian Railways Act 1890, higher penalties had been provided in view of the special nature of the metro railway;

(iv) the provisions of the Indian Railways Act, 1890, were made applicable to the metro railway in respect of other matters not specifically provided for in the Ordinance.

4. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI;
The 15th January, 1985.

BANSI LAL.

FINANCIAL MEMORANDUM

Clause 3 of the Bill invests the Calcutta metro railway administration with the responsibility for the operation and maintenance of the metro railway. The maintenance and operation of the metro railway will involve expenditure on items such as establishment of offices and stations, salaries and allowances of the officers and staff, the cost of electricity consumed, cost of maintenance and upkeep of the assets, etc.

2. It is not possible at this stage to indicate precisely the expenditure that is likely to be incurred, if the Bill is enacted and brought into operation. However, it is estimated that according to the factors known at present, the non-recurring expenditure would be about Rs. 10 lakhs. The recurring expenditure would be about Rs. 2 crores annually for the number and types of services introduced so far with limited frequencies. When more sections of the railway are completed from time to time and taken up for public carriage and services also expand on the sections already opened, expenditure will also increase.

3. The Bill does not involve any other expenditure whether of a recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of the Bill empowers the Central Government to remove by order any difficulty which may arise in giving effect to the provisions of the proposed legislation. The said clause provides that the Central Government shall not issue such order after the expiration of a period of two years from the commencement of the Act.

2. Clause 22 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill. The matters in respect of which such rules may be made, *inter alia*, relate to the terms and conditions of service of the officers and other employees of the metro railway administration, the cases in which and the extent to which the procedure specified in clause 4 for the opening of the metro railway for public carriage of passengers may be dispended with, and the volume and weight of the baggage containing personal belongings that may be carried by a person while travelling in the metro railway.

3. The matters in respect of which rules may be made are matters of procedure and administrative detail. It is, therefore, not practicable to provide for them in the Bill itself.

4. The delegation of legislative power included in the above provisions is therefore normal in character.

Memorandum explaining the modifications contained in the Bill to replace the Calcutta Metro Railway (Operation and Maintenance) Temporary Provisions Ordinance, 1984

Apart from changes of a formal, drafting or consequential nature, the Bill contains the following modification:—

Clause 21 of the Bill empowers the Central Government to remove by order any difficulty which may arise in giving effect to the provisions of the proposed legislation. A proviso is being added to the said clause to the effect that the Central Government shall not issue any such order after the expiration of a period of two years from the commencement of the legislation.

SUBHASH C. KASHYAP,
Secretary-General.

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